

# 2023

## **LOW INCOME HOUSING TAX CREDIT Qualified Allocation Plan**

**DRAFT 2-3-2023**

## Table of Contents

<b>Introduction and Authority.....</b>	<b>3</b>
<b>Qualified Allocation Plan .....</b>	<b>4</b>
Determining the LIHTC .....	4
Tax Credits Available .....	5
Eligibility.....	6
Types of Federal Low Income Housing Tax Credits .....	6
Authorization of the Director .....	7
Fees.....	7
9% Tax Credits.....	9
4% Tax Credits.....	12
<b>Set Aside.....</b>	<b>13</b>
<b>Competitive Application Review and Selection Process .....</b>	<b>15</b>
<b>Threshold Eligibility Requirements .....</b>	<b>18</b>
<b>Evaluation Criteria .....</b>	<b>32</b>
<b>Underwriting Guidelines.....</b>	<b>42</b>
<b>Monitoring for Compliance .....</b>	<b>45</b>
Recordkeeping and Retention .....	46
Notification of Project Changes .....	46
Notification of Noncompliance .....	47
<b>Definitions .....</b>	<b>48</b>

## Introduction and Authority

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The Tax Reform Act of 1986 established the Federal Low Income Housing Tax Credit (LIHTC) Program.<sup>1</sup> The LIHTC Program was subsequently made permanent by the Revenue Reconciliation Act of 1993 as further amended by The Community Renewal Tax Relief Act of 2000, the Housing and Economic Recovery Act of 2008, the American Taxpayer Relief Act of 2012, the Protecting Americans from Tax Hikes (PATH) Act of 2015, and the Consolidated Appropriations Acts of 2018 and 2021, among others.

The LIHTC Program was created to encourage the private sector to invest in the construction and rehabilitation of housing for low and moderate-income individuals and families. Project owner/investors can claim the LIHTC on their federal income tax return each year for a period of 10 full years. However, Projects generally must meet certain requirements for low-income use for a minimum of 30 years per federal requirements.

Pursuant to Internal Revenue Code (IRC) Section 42(h)(8)(A), the Mayor delegated the authority and assigned the responsibility of administering the LIHTC Program to the District of Columbia Department of Housing and Community Development (DHCD or the Department) in Mayor's Order 87-72.

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<sup>1</sup> This is to be differentiated from the District of Columbia Low Income Housing Tax Credit (DC LIHTC). For a discussion of the DC LIHTC program and its relation to the District's federal LIHTC program please see <https://code.dccouncil.us/dc/council/code/titles/47/chapters/48/>.

## Qualified Allocation Plan

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Federal law requires the District of Columbia to adopt a plan, the “Qualified Allocation Plan” or “QAP,” to allocate the LIHTC to Projects based on federally mandated requirements and priority needs determined by the District. The District’s QAP is intended to ensure the selection of only those Projects that comply with federal law and address, on a priority basis, the District’s housing needs.

These allocation procedures govern the award of the District’s LIHTC and apply to residential rental housing financed in conjunction with: (1) private lenders; (2) tax-exempt bonds; and (3) local or federal loan programs. These procedures are automatically renewed annually, unless amended or replaced. In the event that federal law changes after the QAP is adopted, or additional regulatory guidance or clarifications regarding the LIHTC program become available, DHCD reserves the right to modify, to supplement or to make conforming amendments to this QAP and all related documents without undergoing a formal amendment process or additional public hearings. In addition to notifying affected tax credit program applicants, DHCD will make information about such subsequent changes available on its website at [www.dhcd.dc.gov](http://www.dhcd.dc.gov).

### Determining the LIHTC

The tax credits are generally provided to Project owners in equal annual installments over a 10-year period. The tax credits may not exceed the applicable percentage of the qualified basis of each low income building in the Project as defined in IRC Section 42(d):

- 9% LIHTC: New construction and rehabilitation Projects are eligible for a fixed tax credit of not less than 9% if placed in service after July 30, 2008.
- 4% LIHTC: Projects financed with tax-exempt bonds under IRC Section 103 or involving the acquisition of existing buildings (when combined with substantial rehabilitation) are eligible for a fixed tax credit of not less than 4% if placed in service after December 31, 2020<sup>2</sup>.
- Basis Boost: Projects located in Qualified Census Tracts (QCT) or a Difficult Development Area (DDA), or other tracts as defined in this QAP, are eligible for a boost to their eligible basis of up to 30% as needed to guarantee the Project’s financial feasibility.

A reservation of 9% Tax Credits is made after DHCD does an initial review of the Project budget sources-and-uses statement to determine the Project’s feasibility and is conditioned upon the development’s sponsor meeting certain requirements as described in this QAP. Those applicants satisfying the requirements will be given an allocation of tax credits. If the development is placed in service in the year of allocation, it qualifies for an allocation for that

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<sup>2</sup> As enacted by the Consolidated Appropriations Act 2021, under IRC Section 42(b)(3), the applicable percentage for LIHTC allocations made after December 31, 2020, shall not be less than 4%.

year and IRS Form(s) 8609 will be issued on or before December 31. If the development is not placed in service in the year of allocation, the Sponsor/Developer can request a Carryover Allocation. Upon this request, DHCD will review the development budget for continued feasibility to reflect any changes in the development's cost and/or financial structure before granting a Carryover Allocation.

After a building has been placed in service (i.e., the building construction or rehabilitation is substantially complete and/or a Certificate(s) of Occupancy is received), the Sponsor/Developer will request IRS Form(s) 8609 to begin claiming the Tax Credit on its federal tax return. A final analysis will be performed at the time of placement in service to determine the final Tax Credit Allocation Amount, which is the lesser of: (1) the tax credits necessary to make the development feasible; or (2) the amount of the earlier carryover allocation.

Projects that apply for tax-exempt bonds are eligible to request 4% Tax Credits. Consistent with an inter-agency agreement between DHCD and DCHFA, before the Project closes on the tax-exempt bonds, DCHFA submits the application to DHCD for the allocation of tax credits.

### **Tax Credits Available**

The amount of 9% Tax Credits available for the District to allocate in each calendar year reflects the sum of the amounts allowed as the per-capita State Ceiling under IRC Section 42(h)(3)(C). This amount may be increased by: (1) returned tax credits from prior years; (2) tax credits allocated to the District from the national tax credit pool; or (3) new legislation increasing the amount of tax credits distributed to each state.

Any unallocated or recovered 9% Tax Credits or a combination of both may be: (1) awarded as part of the current year cycle(s) of awards for tax credits; or (2) carried over to the next year's cycle(s) of awards at DHCD's discretion.

The amount of available 4% Tax Credits is not subject to a ceiling and corresponds with the annual amount of qualified Private Activity Bond Volume Cap allocated to a Project. As of 2023, the demand for available Bond Cap exceeds supply, such that tax-exempt bonds and associated 4% LIHTCs are now allocated competitively.

## DHCD Program Overview

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### Eligibility

Experienced for-profit and non-profit Sponsor/Developers that are in good standing with the District (as defined in the Development Team Thresholds section of the Threshold Eligibility Requirements Section of the QAP) are eligible to apply for a reservation of LIHTC to fund residential rental property developments located in the District that are affordable to households earning 60% of the Area Median Gross Income (AMGI or AMI) or less, or 80% AMGI or less if the Average Income minimum set-aside election is used as described further on page 17. Project eligibility requirements are defined in the Threshold Eligibility Requirements section of the QAP.

### Types of Federal Low Income Housing Tax Credits

There are two types of federal LIHTCs: 9% Tax Credits from the District's per-capita State Ceiling and 4% Tax Credits issued to qualifying Projects financed with tax-exempt bonds.

- **9% Tax Credit:** The 9% Tax Credit is competitively awarded to eligible Projects based on the evaluation criteria in this QAP, as may be clarified by the most recent Consolidated Request for Proposals for Affordable Housing Projects ("Consolidated RFP"). The 9% Tax Credit is based on a 10-year present value calculation of 70% of the qualified basis of each building in the Project. For those non-federally subsidized new buildings placed in service after July 30, 2008, the applicable percentage must be no less than 9%. The maximum LIHTC amount allocated to a Project is determined by a formula that considers the amount of eligible costs and the percentage of qualified tenants.
- **4% Tax Credit:** Projects financed with certain tax-exempt bonds may be eligible to receive a 4% Tax Credit without regard to the District's per capita State Ceiling. The 4% Tax Credit is based on a 10-year present value calculation of 30% of the qualified basis of each building in the Project. For Projects placed in service after December 31, 2020, the applicable percentage must be no less than 4%. Tax-exempt bond financed Projects must be evaluated against the Threshold Eligibility Requirements in this QAP.

Both types of credits must comply with two DHCD monitoring procedure guideline documents: the "DHCD Low-Income Housing Tax Credit and HOME Investment Partnerships Program Owner's Compliance Manual" and the most recent "RFP Compliance and Monitoring Reference Guide," which is incorporated by reference in this QAP, and available here:

<https://dhcd.dc.gov/service/project-monitoring>.

Per § 42(e)(3), Projects must include either new construction or substantial rehabilitation totaling the greater of \$7,900 per unit for calendar year 2023 (subject to annual increase) or 20% of the adjusted basis of the building(s). Projects that meet the substantial rehabilitation

requirements may also be eligible for a tax credit based on the acquisition of the building.

### **Combining the 9% and 4% Credit**

While generally a Project is awarded only 9% Tax Credits or 4% Tax Credits, it may be possible, under specific facts and circumstances, for a Project to receive both types of Tax Credits.

### **Authorization of the Director**

This QAP contains the general dates for application, carryover, and monitoring of the District's LIHTC Program. However, the DHCD Director maintains discretion with respect to Program administration, as permitted by IRS guidance or law.

### **Fees**

The following fees are assessed to a Project: (1) Issuance Cost, which includes application, reservation, and allocation fees; and (2) Compliance Cost, which includes all compliance, monitoring, and inspection fees. Full and timely payment of all fees is a requirement of every allocation. All issuance and compliance costs are non-refundable. See the following table for more details on fees.

FEES		
<i>Fee Name</i>	<i>Amount</i>	<i>Applicability</i>
Application Fee (Non-profit)	\$500.00	9%
Application Fee (For Profit)	\$750.00	9%
Reservation Fee: Assessed at the time a reservation is given to a Sponsor/Developer. The amount is due in full when the Sponsor/Developer accepts the reservation. No reservation will be valid if not accompanied by the reservation fee.	50% of 1% of the total 10-year allocation for the Project	9%
Allocation Fee on per capita Projects: Assessed when DHCD issues the carryover allocation.	50% of 1 percent of the value of the total 10-year allocation for the Project	9%
Allocation Fee for tax exempt bond funded Projects.	1% of the total 10-year allocation paid in two installments: a portion at closing and the remaining portion when DHCD issues the IRS Form(s) 8609.	4%
Compliance Monitoring Fee: All Projects that receive an IRS Form 8609. The fee will be due each year on February 15.	<p>\$60 per unit per year for the first 15 years of the Compliance Period, or \$75 per unit per year for Projects selecting the Average Income minimum set-aside.</p> <p>\$35 per tax credit unit per year (including employee units) starting from the 16th year of compliance or \$40 per tax credit unit per year for Projects selecting the Average Income minimum set-aside (not to exceed \$4000 per Project after the initial 15 years of the Compliance Period).</p>	9% and 4%
Re-inspection Fee: Projects failing an inspection and/or tenant file review that are issued an IRS Form 8823 must have a re-inspection and/or follow up tenant file review.	\$50 per hour (\$50 minimum) to re-inspect deficiencies as observed. Additional \$50 per hour (\$50 minimum) to review tenant files and any document forwarded to DHCD to correct noncompliance.	9% and 4%
Extension Fee: Sponsors/Developers unable to meet the deadline for a carryover allocation application may request an extension and pay a fee at the time the request is submitted.	A late charge of \$500 per day will be assessed for each calendar day past the due date that the Carryover Allocation application is not returned to DHCD.	9% and 4%
Allocation Modification Fee: Sponsor/Developers requesting modifications to the IRS Form 8609 where the modification is not the result of a DHCD administrative error.	\$1,000	9% and 4%



## **9% Tax Credits**

Reservation applications for the 9% Tax Credit will be accepted and reviewed as part of DHCD's competitive Consolidated RFP process. DHCD will notify the public concerning the exact schedule of the competitive round(s) for the reservation of LIHTC, which generally will follow the timeline described in this QAP. All applications must be submitted through DHCD's Online Application System. Additional information, including access to the online application, is available at DHCD's website: [www.dhcd.dc.gov](http://www.dhcd.dc.gov) or at (202) 442-7200.

## **Underwriting Process**

Underwriting will be performed on a Project at three stages: (1) before a reservation is awarded; (2) at Carryover Allocation; and (3) before an IRS Form(s) 8609 is issued evidencing the LIHTC allocation.

### ***Before a Reservation Is Awarded***

A Reservation (or Reservation Letter) of 9% Tax Credits is made after DHCD completes an underwriting review to determine the Project's feasibility and is conditioned upon the development's sponsor meeting certain requirements as described in this QAP. The Reservation is a conditional commitment of LIHTC and, therefore, does not meet the definition of a binding allocation as stated in IRC Section 42. If the Project is not placed in service during the same calendar year as the Reservation Letter, then DHCD will issue a binding Carryover Allocation to the Sponsor/Developer if all the requirements are met as further described in this QAP.

### ***Surplus Reservations***

If the supply of LIHTC each year exceeds the demand in the initial competitive round, those surplus tax credits may, at the sole discretion of the DHCD Director, be reserved in the following order of priority, without the need for an additional advertised competitive round:

- For Projects that: (1) received a Reservation from a prior year; (2) have sufficient eligible basis to qualify for additional tax credits; and (3) need additional tax credits to complete the Project's funding in a manner that creates financial feasibility and economic viability.
- For Projects that: (1) are in a high state of readiness; (2) have sufficient eligible basis; and (3) need LIHTC to complete the Project's funding in a manner that creates financial feasibility and economic viability, provided the Project has been approved through the competitive process.
- For Projects that: (1) have sufficient eligible basis; (2) are in a strategic development zone; and (3) need LIHTC in order to complete the Project's funding in a manner that creates financial feasibility and economic viability.

### ***Forward Reservation***

Under certain conditions, a Project may be eligible to receive a Reservation of LIHTC from the District's per capita State Ceiling for future years (known as a Forward Reservation). To receive a Forward Reservation, the Sponsor/Developer must agree to comply with all conditions imposed by DHCD and the IRS. The following types of Projects may receive Forward Reservations from future years' LIHTCs:

- **Insufficient LIHTC:** A Forward Reservation may be approved for a Project that ranked high enough in a round of competition for an award, but for which there is insufficient remaining LIHTCs that can be allocated in the current year.
- **Multiple Year Reservations:** For Projects that require more annual LIHTCs than available and/or reservations would be more appropriately staged over two or more years, DHCD may agree to reserve, subject to availability, LIHTCs from a future year(s). DHCD will determine if the benefits to the District are sufficient to warrant the issuance of a Forward Reservation. In most cases this determination will rely primarily on the following factors:
  1. whether the Sponsor's/Developer's LIHTC request is large enough to require being split because an award in a single year would eliminate the availability of LIHTC to other competitive applicants; and
  2. if the scope of the rehabilitation or construction is such that it is unlikely that the entire Project can be "placed in service" within the time frame required by the IRC.

#### *Projects Unable to Meet Deadlines*

Some Project(s) that have received Reservations are not able to meet the schedule outlined in the Reservation for reasons beyond the control of the Developer but are Projects the DHCD Director may deem to be essential to DHCD's strategic plan or mission. In this event, the previous Reservation may be returned and, at the sole discretion of the DHCD Director, a Reservation from one future calendar year may be substituted for the LIHTC reserved under the returned Reservation.

#### ***At the Carryover Allocation***

Sponsors/Developers that meet the requirements of the Reservation Letter shall receive a binding allocation agreement (the "Carryover Allocation") that meets all qualifications required under IRC Section 42. The Sponsor/Developer must incur more than 10% of the reasonably anticipated basis within 12 months of the tax credit Carryover Allocation date (the "10% Test") and then place the Project in service no later than the end of the second year following the year of the Carryover Allocation. Failure to meet these requirements will result in the loss of the LIHTC for the Project.

To demonstrate that a Project meets the 10% Test, DHCD requires the owner to submit:

1. an owner's certification, which includes an itemized list of Project expenditures; and

2. a Certified Public Accountant (CPA)'s opinion documenting that the Project has met the 10% Test within 12 months of the date of the allocation of tax credits.

Reservation Letters will identify a date certain by which Sponsors/Developers must certify that: (1) Projects have been placed in service; or (2) at a minimum, that more than 10 percent of the reasonably anticipated basis of the Project has been incurred. If the Sponsor/Developer has not met either of these requirements, the Reservation may be cancelled. Any LIHTC available from cancelled Reservations will be awarded to other Projects or carried forward in the District's unallocated pool.

### ***Before an IRS Form(s) 8609 Is Issued***

When buildings are placed in service, DHCD will complete a final evaluation of the Project to determine the LIHTC amount needed to make the development feasible. Only the amount needed for financial feasibility and economic viability will be allocated. In compliance with Section 42(m)(2) and Section 42(h)(3)(c) of the Internal Revenue Code and the Carryover Allocation, DHCD will make a final determination of the LIHTC allocation prior to issuance of the IRS Form(s) 8609. Deferred developer fee will be viewed as a committed source at closing and will only be reduced prior to DHCD's final housing credit determination in accordance with DHCD's standard right-sizing policies. Any additional LIHTC previously allocated to Projects, above and beyond this amount, will be returned to DHCD.

Before the IRS Form(s) 8609 can be issued, DHCD must receive, review, and approve the documentation described above, which includes a revised, updated application that:

- incorporates all changes in the development team and management group; and

After construction is completed and the Project is placed in service, the Sponsor/Developer must submit an application to DHCD requesting that IRS Form(s) 8609 be issued to allocate the tax credits to the Project. The application for the IRS Form(s) 8609 must consist of:

- a revised Project development budget and operating pro forma (Form 202), adjusted to reflect the final development sources and uses reflected on the cost certification prepared by the Project's CPA, and including a statement of the computation of the Project's development costs that qualify as eligible costs per IRC Section 42, in both Excel and signed PDF formats;
- a copy of the Accountant's/Owner's cost certification, including the 50% Test for projects using tax-exempt bonds/4% tax credits;
- a draft of the IRS Form 8609 for each building in the Project;
- copies of the Project's required DC licenses (for example, a basic business license) for the owner and management agent;
- D.C. Department of Buildings-issued Certificate of Occupancy, or equivalent documentation acceptable to DHCD, indicating that each building has been placed in service;

- a copy of the recorded Land Use Restrictive Covenants (i.e., the Indenture of Restrictive Covenants (Extended Use Agreement) for LIHTCs);
- a copy of the Project market study;
- a copy of the executed owner's partnership or operating agreement, including any and all amendments since closing, attachments and exhibits;
- a summary of any changes to the development team and management group;
- evidence of LIHTC fees paid at closing; and
- a copy of the Project's Federal applicable percentage rate lock agreement.

#### **4% Tax Credits**

If competitive gap financing is required in addition to 4% Tax Credits, the Sponsor/Developer is required to apply for funding as part of the Consolidated RFP process.

Beginning in 2023, if competitive gap financing is not required and a Sponsor/Developer wishes to exclusively request tax-exempt bonds and associated 4% Tax Credits, Sponsors/Developers must first apply to DHCD for Threshold Review and to receive an Evaluation Score before applying directly to DCHFA for tax-exempt bonds. Guidance about the updated tax-exempt bond allocation process is available on the DCHFA website at

<https://www.dchfa.org/developers/available-programs/mmr/b/>.

Consistent with an inter-agency agreement between DHCD and DCHFA, before the Project closes on the tax-exempt bonds, DCHFA submits the application to DHCD for the allocation of tax credits. DHCD relies on the DCHFA underwriting of tax-exempt bond Projects and accepts DCHFA's determinations for those Projects if competitive gap financing is not required.

After the Project is placed in service, the owner applies to DCHFA for the IRS Form(s) 8609. DCHFA evaluates the request and transmits the request for IRS Form(s) 8609 to DHCD for final review and issuance. The requirements for the submission of a request for IRS Form(s) 8609 are the same as those highlighted above for 9% Tax Credits.

## Set Aside

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### Non-Profit Set-Aside

As required by federal law, a minimum of 10% of the per capita State Ceiling must be set-aside exclusively for Projects developed by Qualified Non-profit Sponsor/Developers. To be eligible to receive a reservation from this set-aside, Sponsor/Developers must show that they will meet the following federal requirements throughout the Compliance Period:

1. must be an organization described under IRC Sections 501(c)(3) or 501(c)(4) and exempt from tax under IRC Section 501(a) or be a wholly owned subsidiary of a Qualified Non-profit Organization;
2. must have as one of its tax-exempt purposes the fostering of low income housing;
3. must own a controlling interest in the Project either directly or through a partnership;
4. must materially participate in the Project's development and operation through regular, continuous, and substantial actions; and
5. must not be affiliated with or controlled by a for-profit organization.

Reservations from the non-profit set-aside are permitted when a partnership between non-profit and for-profit entities exists, only if each organization is independently controlled and operated, the non-profit materially participates in the Project's development and operations, and the non-profit maintains a controlling interest in the Project through the partnership structure (e.g. non-profit or an affiliate of the non-profit is the managing member of the general partner of the limited partnership, or the managing member of the limited liability company, as applicable, that owns the Project).

Some LIHTC Projects may be eligible for property tax and recordation tax exemption authorized by DC Official Code section 47-1005 ("Tax Relief Program"). Applications for the Tax Relief Program should be made to DHCD. More information can be found at:

<https://dhcd.dc.gov/page/tax-relief-certification-forms-nonprofit-affordable-housing-developers>.

Additional requirements for non-profit participation and rights of first refusal are in the LIHTC-Specific Requirements section below.

### Director's Special Initiatives Program

The DHCD Director may use up to 25% of any annual per capita allocation and 25% of any unallocated carryover of a prior year allocation as a Director's Special Initiatives program for stimulating development to create a more equitable and inclusive District of Columbia community that aligns with District development priorities outlined in policy documents including, but not limited to, the Consolidated RFP, the Consolidated Plan, the Annual Action

Plan, and the District's Housing Framework for Equity and Growth.

## Competitive Application Review and Selection Process

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DHCD will evaluate all applications for Tax Credits against the Threshold Eligibility Requirements outlined in this document during Threshold Review. Applications must meet each requirement as indicated in this section or the Project will not pass Threshold Review and will not move to the Evaluation Scoring stage. Without passing Threshold Review and receiving an Evaluation Score, a project is not eligible to receive Tax Credits or to apply to DCHFA for a tax-exempt bond allocation.

Beginning in January 2023, DHCD and DCHFA instituted a new process to allocate tax-exempt bonds, LIHTC, and gap subsidy through two distinct application and review windows. Below is a snapshot of key information about the two key review periods. All projects seeking funding will need to apply to DHCD for a Threshold Review and Evaluation Score before seeking an allocation of bond cap through DCHFA. Guidance about the updated tax-exempt bond allocation process is available on the DCHFA website at [www.dchfa.org/developers/available-programs/mmr/b/](http://www.dchfa.org/developers/available-programs/mmr/b/).

	DHCD Threshold Review & Evaluation Scoring	DCHFA Readiness Review
<b>When Are Reviews Held?</b>	DHCD will open two Threshold Review and Evaluation Scoring application windows in January and July of each year. One or both submission windows may coincide with the release of a Consolidated RFP that will allow applicants to apply for Threshold Review, Evaluation Scoring, and gap financing subsidy with one application.	DCHFA will accept Readiness Review Applications for Bond Cap and associated 4% LIHTCs during two application rounds per year, the first in January and the second in July, as resources may allow. As part of the Readiness Review Application, a complete DCHFA Stage 2 application is required.
<b>What Types of Projects Have to be Reviewed?</b>	Projects seeking the following types of financing will be reviewed for Threshold Eligibility and to receive an Evaluation Score: <ul style="list-style-type: none"><li>• Gap financing and other resources offered in DHCD's annual Consolidated RFP</li><li>• 4% LIHTCs</li><li>• 9% LIHTCs</li></ul>	Projects seeking tax-exempt bonds and associated 4% LIHTCs will be reviewed for readiness by DCHFA. The criteria for the evaluation of project readiness is defined by DCHFA on their website.
<b>What Happens After the Review?</b>	After each application deadline, applications that meet all the Threshold Eligibility Requirements will move forward to the Evaluation Scoring stage. Projects will receive an Evaluation Score. Projects will then be notified of their Evaluation Score.	Projects that pass DHCD's Threshold Review and receive an Evaluation Score may apply to DCHFA in a Readiness Application window when the Project is ready and able to close within six months of applying to DCHFA. DCHFA will review applications received by the published deadline in January and July, provide a cure period for deficiencies, and will set the pipeline for the following six-month period by ranking projects based on the Project's Evaluation Score from high to low scores.

<b>Where Are Applications Submitted?</b>	Application materials and further instructions can be found on DHCD’s website: <a href="https://dhcd.dc.gov/service/development-and-finance">https://dhcd.dc.gov/service/development-and-finance</a>	Follow DCHFA guidance at: <a href="http://www.dchfa.org/dev/developers/available-programs/mmr/b/">www.dchfa.org/dev/developers/available-programs/mmr/b/</a>
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The steps in the application and review process are below:

### 1) **Step One: DHCD Threshold Eligibility Review**

Any project planning to apply for 4% Tax Credits and tax-exempt bonds must first apply to DHCD for Threshold Eligibility Review and to receive an Evaluation Score. Any Project seeking 9% Tax Credits and/or gap financing (including any other competitive financing sources such as local and federal loans and grants, and rental assistance) will be accepted and reviewed as part of DHCD’s competitive Consolidated RFP process.

DHCD will open Threshold Review and Evaluation Scoring submission windows in January and July of each year. One or both of the DHCD submission windows may coincide with the release of a Consolidated RFP that will allow applicants to apply for Threshold Review, Evaluation Scoring, and gap financing or other resources with one application.

All development proposals must be submitted in DHCD’s Online Application System. Detailed instructions on how to create, build, and submit an application are provided on DHCD’s website at <https://dhcd.dc.gov/service/development-and-finance>.

To submit a responsive, complete proposal:

- all application filing requirements must be closely followed;
- all information requested in the application must be responded to completely; and
- all information and figures provided must be consistent throughout the application.

The central component of the application is a multi-tab spreadsheet titled “Form 202 – Application for Financing” provided by DHCD (available within the Online Application System). The current version of the Form 202 must be used for all applications. Applicants will use this workbook to present details of their proposal, such as their development budget, operating pro-forma, tax credit calculations, and unit information.

Applications that meet all the Threshold Eligibility Requirements will move forward to the Evaluation Scoring stage. DHCD will provide a cure period for deficiencies as further detailed in the Online Application.

### 2) **Step Two: DHCD Evaluation Scoring**

Projects that meet all DHCD’s Threshold Eligibility Requirements will be competitively evaluated and scored based on Evaluation Criteria outlined herein, as further detailed in the Consolidated RFP and in DHCD’s Online Application.

### 3) **Step Three: DCHFA Bond Readiness Review**



DCHFA will accept Readiness Applications for tax-exempt bonds and associated 4% Tax Credits during two application windows per year, one in January and one in July, as resources are available. Applicants must submit documentation of their Threshold Review and Evaluation Score from DHCD to DCHFA as part of the Bond Readiness Review Application.

DCHFA will finance Projects based on the priority set by the DHCD Evaluation Score, from high scores to low scores, until the applicable tax-exempt bond cap is exhausted for the applicable six-month period. Projects that meet the Threshold Eligibility Requirements, but do not rank highly enough to receive a tax-exempt bond allocation will need to submit for an allocation in the next scheduled DCHFA Bond Readiness Review Application window.

In the event that two Projects receive the same Evaluation Score, and prioritization is required, priority will be given to Projects as described below:

- i) The Project with the highest geographic location score as determined according to points assigned in the applicable Consolidated RFP.
- ii) The Project with the largest percentage of 30% MFI units.

DCHFA's Readiness Review Application is available at [www.dchfa.org/developers/available-programs/mmr/b/](http://www.dchfa.org/developers/available-programs/mmr/b/).

## Threshold Eligibility Requirements

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Projects will apply to DHCD in a Threshold Review and Evaluation Scoring window for Threshold Eligibility Review. Projects applying for the 9% Tax Credits or the 4% Tax Credits must meet all of the Threshold Eligibility Requirements defined in this QAP unless otherwise indicated, and as clarified in the Underwriting Guide, in the current Consolidated RFP, or other published guidance. The Threshold Eligibility Requirements are intended to eliminate Projects that do not meet basic tax credit program guidelines and to ensure that LIHTCs are reserved for Projects that are viable and in compliance with District and federal requirements.

Projects that do not meet the Threshold Eligibility Requirements will not be evaluated and ranked by DHCD during competitive rounds, and will not be eligible to apply to DCHFA for tax-exempt bond allocation. In addition, all Projects seeking LIHTCs must fully comply with all requirements in IRC Section 42, and all 4% LIHTC Projects must comply with DCHFA's Mortgage Revenue Bond Program (MMRB) guidelines. For more information on MMRB guidelines visit [www.dchfa.org/developers/available-programs/mmrp/](http://www.dchfa.org/developers/available-programs/mmrp/).

Eligible Project types include Production and Preservation, defined as follows:

- **Production Projects** are new construction Projects or Projects that rehabilitate vacant buildings.
- **Preservation Projects** include the acquisition and rehabilitation or one-for-one, on-site replacement of existing, occupied housing where affordability will be preserved for existing low-income residents. The property may have an existing and expiring covenant, affordability deed restriction or operating subsidy, or it may currently be unsubsidized.

Consolidated RFP Projects may also be classified as a combination of both Production and Preservation Project types. Similarly, it is possible for both Project types to produce net new affordable units ("Net New Units") by placing affordability restrictions on existing units that were not previously subject to affordability restrictions other than the District's rent control regulations. Net New Units can be produced through new construction Projects, through Projects that preserve naturally affordable market-rate housing that has no existing affordability covenant, or through the addition of units to a Preservation Project that is already subject to an existing affordability covenant.

The Threshold Eligibility Requirements pursuant to this 2023 QAP are more fully described below:

		Production Preservation	
THRESHOLD ELIGIBILITY REQUIREMENTS		Applicable?	
<i>Project Criteria</i>			
Project Eligibility and Certifications	✓	✓	
Permanent Supportive Housing	✓	NA	
Site Control	✓	✓	
Entitlements and Development Review	✓	✓	
<i>Financial Criteria</i>			
Development Budget and Operating Proforma	✓	✓	
Acquisition Cost Reasonableness	✓	✓	
Financing Letters and Terms	✓	✓	
Financial Information for Projects already in operation	NA	✓	
<i>Applicant Criteria</i>			
Development Team Thresholds	✓	✓	
<i>Reports and Plans</i>			
Appraisal	✓	✓	
Market Study and Market Demand Analysis	✓	✓	
Environmental Site and Physical Needs Assessments	✓	✓	
Architectural Plans and Cost Estimates	✓	✓	
<i>Compliance Criteria</i>			
Green Building Design and Construction	✓	✓	
Relocation and Anti-Displacement Strategy	✓	✓	

## ***Project Criteria***

### **Project Eligibility and Certifications**

Projects requesting LIHTCs must meet the tax credit program's basic eligibility requirements as described below. In addition, if requesting competitive gap financing from DHCD, Projects are required to meet all additional requirements further detailed in the Consolidated RFP. Competitive gap financing includes any competitive financing sources offered through the Consolidated RFP such as 9% credits, local and federal loans and grants, and project-based rental assistance.

#### ***Basic Eligibility***

Projects must involve new construction, acquisition, or rehabilitation. Per IRC § 42(e)(3), for Projects involving rehabilitation, the rehabilitation costs must be the greater of:

- \$7,900 per unit for calendar year 2023 (subject to annual increase); or
- 20% of the adjusted basis of the building(s).

This minimum rehabilitation requirement must be met within the two years preceding the placed-in-service date. For Projects receiving acquisition tax credits for existing Projects, DHCD may, as a condition for a reservation of tax credits, require the Sponsor/Developer to provide a legal or Certified Public Accountant's opinion regarding the Project's satisfaction of the requirements of IRC Section 42(d)(2)(B)(ii) (i.e., the 10-year rule) or exemption thereunder.

Projects also must meet the following minimum affordable household occupancy restrictions, restricted rent levels, and Project size limitations.

- a. Minimum Affordable Household Occupancy Restrictions: At a minimum, Sponsor/Developers must elect that either:
  - 20% of the units in the Project or more must be rented to families with incomes at 50% or less of AMGI;
  - 40% of the units in the Project or more must be rented to families with incomes at 60% or less of the AMGI; or
  - 40% of the units in the Project or more are rent-and-income-restricted to families with incomes at 80% or less of the AMGI, as long as the average does not exceed 60% of AMGI (known as the "Average Income" minimum set-aside, or "Income Averaging").

The minimum set-aside election is irrevocable once made on IRS Form(s) 8609. Income Averaging will be considered for Projects that have not yet requested issuance of IRS Form 8609(s) on a case-by-case basis by DHCD and/or DCHFA, as applicable. Applicants that elect the Income Averaging minimum set-aside shall comply with the following restrictions and requirements:

- 100% of the units are LIHTC-eligible, except for preservation Projects with current tenants with documented income above 80% of AMGI;
- At least 10% of the units must be restricted at 30% AMGI or below;
- Applicants must provide reasonable parity between unit size and buildings, as applicable, at each income band;
- All buildings in the Project shall be included as one multiple building Project, as referenced on line 8b of IRS Form 8609, except on a case-by-case basis; and
- 4% Tax Credit Projects that elect the Income Averaging minimum set-aside must meet either the 20/50 or 40/60 minimum applicable to tax-exempt bond financing.

DHCD reserves the right to allow exceptions to these requirements on a case-by-case basis.

- b. Maximum Rent Levels: Low-Income Units in the Project must be rent restricted as defined by IRC Section 42(g)(2) for a period of at least 40 years (the Compliance

Period of 15 years and an extended use period of at least 25 years, for a total period of at least 40 years). Before DHCD issues the IRS Form(s) 8609, the Sponsor/Developer must provide evidence that the Land Use Restrictive Covenants has been recorded in the land records.

### ***Project Certifications***

As further described in the Consolidated RFP, applicants will be required to complete various Project certifications.

### ***Narrative Completion***

Applicants will need to certify that a Project narrative was submitted on the most recent form provided as part of the Consolidated RFP online application.

### ***General Compliance Certifications/Affirmations***

Each applicant must certify that the Project is, and will be, in compliance with all applicable federal and local laws and regulations as referenced in the supplemental Compliance and Monitoring Reference Guide.

Approval or letters of support by the Advisory Neighborhood Commission (ANC) or other community groups will not be considered as part of the application.

### ***LIHTC-Specific Requirements***

As part of the Project narrative submission and accompanying certifications, applicants requesting 9% or 4% Tax Credits will be subject to the following LIHTC-specific requirements.

### ***Year 15 Plan and Transfer or Sale of Property***

Each applicant must present a clear plan for the Project at the end of the initial 15-year Compliance Period. The plan must include support and rationale for the following:

- The exit strategy for the limited partner or investor member, as applicable, and the anticipated ownership changes.
- Any anticipated refinancing, re-syndication, or sale to a third party.
- How affordability will be maintained through the minimum 40-year extended affordability period.

Applicants must agree to maintain the minimum 40-year extended affordability period by waiving their right to seek a qualified contract for the Project purchase after the 14th year of the Compliance Period.

Any application submitted by an applicant with a principal that was or is currently a principal

in an Ownership Entity that has previously requested a Qualified Contract will not be considered for any reservation or allocation of credits at DHCD's discretion.

#### *Non-profit Participation and Right of First Refusal*

Projects in which a Qualified Non-profit Organization holds a right of first refusal to purchase the Project at the end of the Compliance Period based on IRC Section 42(i)(7), as may be amended from time to time, must meet several requirements. The right of first refusal may be exercised anytime within a twenty-four (24) month period, or longer period, after the close of the Compliance Period. Once exercised, the Qualified Non-profit Organization shall have at least twelve (12) months to close on the purchase of the Project or the interests of the non-managing members of the Ownership Entity. The Qualified Non-profit Organization may assign the right of first refusal to a governmental entity, another Qualified Non-profit Organization, or a tenant organization. In all instances where the non-managing members of the Ownership Entity have the right to consent to the exercise or assignment of the right of first refusal, such consent shall not be unreasonably withheld, conditioned or delayed. The non-managing members of the Ownership Entity may not withhold consent for a non-material breach of the Ownership Entity organizational documents. The purchase price shall be calculated by the Project accountants and shall be based on the minimum purchase price in IRC Section 42(i)(7)(B) plus the amount needed to pay any unpaid fees, loans or other amounts due to the non-managing members of the Ownership Entity from the managing member or general partner, as applicable.

The right of first refusal cannot be conditioned upon receipt by the Owner of a bona fide offer from any party, including a third party. The right of first refusal as outlined in IRC Section 42(i)(7), as may be amended from time to time, is not the same as a right of first refusal under statutory, court-interpreted, or common law.

All rights of first refusal granted to Qualified Non-profit Organizations are subject to the requirements of the Tenant Opportunity to Purchase Act (TOPA) and the District's Opportunity to Purchase Amendment Act of 2008, DC Law 17-286 (DC Official Code Section 42-3404.31 et seq.), as either may be amended from time to time.

#### **Permanent Supportive Housing**

For new construction rental Projects—and rental Projects that rehabilitate existing, vacant buildings—at least 5% of the units, and no less than one unit, must be designated as PSH as defined in this QAP. The PSH requirement does not apply to preservation-only Projects that do not create Net New Units, Projects applying solely for 4% Tax Credits, the Director's Special Initiative Projects, or Projects that receive surplus credit reservations.

For Projects that preserve existing housing and add Net New Units, the PSH set-aside requirement will apply only to the new units created.

Applicants must certify the number of PSH units proposed and acknowledge the District’s PSH requirements (in a format specified in the Consolidated RFP and Online Application System). PSH units that are used to meet the 5% set-aside requirement must follow the Housing First model and fill vacancies through the Coordinated Entry System (as defined in the Consolidated RFP).

### **Site Control**

Applicants must have control of the site proposed for development. This may be in the form of:

- a current deed evidencing fee simple ownership;
- a lease option (lease term must be equal to or greater than the proposed financing term);
- a land or property disposition agreement (LDA or PDA) executed with the District of Columbia; or
- a contract of sale.

At the time of application, site control MUST extend for at least 180 days beyond the date of the application submission or be demonstrably renewable so that site control can extend through the 180-day period.

### **Entitlements and Development Review**

The applicant must demonstrate that the proposed development is matter of right, or that applicable zoning approvals have been applied for. For any proposed Project that requires a more substantial zoning decision or design review, the Map Amendment application, Stage 2 Planned Unit Development (PUD) application, Design Review application, or consolidated PUD application is required to have been submitted to the Zoning Commission before application submission.

If a Project is in a Historic District or requires approval from the Historic Preservation Review Board (HPRB) for any other reason, HPRB approval of the conceptual design is required before application submission.

## ***Financial Criteria***

### **Development Budget and Operating Proforma**

The financial component of the application will be submitted using the most recent multi-tab spreadsheet titled “Form 202 – Application for Financing” (Form 202) that will be provided by DHCD (available within the Online Application System). Applicants will use this workbook to present the details of their proposal, such as the development budget, operating pro-forma, tax credit calculations and unit information, including an AMGI designation by unit size, which will be recorded in the Land Use Restrictive Covenants. Budgets must comply with the current version of DHCD’s underwriting guidelines, which are defined in this QAP, in the Underwriting Guide and other published guidance, and in each Consolidated RFP, as applicable.

Projects that use 4% Tax Credits also must meet DCHFA's underwriting standards.

### **Acquisition Cost Reasonableness**

Proposed property acquisition costs must be reasonable and may not exceed the property's fair market value as evidenced by an appraisal. DHCD will determine reasonableness through an analysis of the appraisal and the proposed flow of funds. DHCD reserves the right to request a second appraisal.

For Projects where the property has already been acquired, acquisition cost reasonableness will be based on the original purchase price plus reasonable carrying and settlement costs. If the property was previously purchased by a party affiliated with the Developer/Owner/Sponsor, has increased in value, and the Project budget reflects the current appraised value of the property, DHCD expects a reasonable proportion of the net proceeds from the increased property value to be offset by a seller's note or other similar instrument.

Projects that received or will receive discounted land or property through a District LDA or PDA must reflect the value of the write-down in their budget. The budgeted acquisition price for these Projects must either be zero, minimal, or if the budget reflects the full appraised value of the property, offset by a seller's note or other similar instrument.

### **Financing Letters and Terms**

Applicants must submit letters of interest or letters of commitment from all participating lenders and investors. Financing terms should be consistent with what is commonly available in the market for a particular funding source and will be evaluated on a source-by-source basis. Applicants intending to utilize the minimum set-aside for Income Averaging must submit written acknowledgment from the LIHTC investor/syndicator of this intention.

As part of each LIHTC equity Letter of Intent, applicants are required to ask potential investors or syndicators to submit a written acknowledgement that they have never sought to achieve early termination of a LIHTC extended use agreement through the qualified contract process, nor have they sought to undermine the exercise of a right of first refusal or a non-profit's option to purchase in prior transactions as described in more detail in the Non-Profit Participation and Right of First Refusal section.

### **Financial Information for Operational Projects**

For existing and occupied buildings/properties ONLY, additional information is required to describe the Project's current status, including;

- the current debt structure;
- any operating subsidies currently available to the Project;



- any supportive services currently provided;
- the current occupancy; and
- Project financials.

The applicant must provide audited financial statements for the prior three fiscal years of Project operations. If audited statements are not available, then three fiscal years of un-audited year-end financial statements AND three corresponding years of certified federal income tax returns of the Project must be submitted.

Projects applying through the Consolidated RFP must provide a current rent roll, documentation of all existing loans secured by the property, including DHCD loans, and a proposed flow of funds for the recapitalization of existing properties.

## ***Applicant Criteria***

### **Development Team Thresholds**

The applicant must have the development team in place and provide complete information and documentation on its members. At a minimum, the following team members must be identified:

- Owner (including all parties involved in the partnership or limited liability company, as applicable)
- Guarantor(s)
- Developer
- Development or Financing Consultants (if applicable)
- Architect
- General Contractor
- Construction Manager (if applicable)
- Management Agent
- Resident/Supportive Services Provider (if applicable)

The development team will be evaluated on their experience with and performance on comparable Projects, on past performance, and on their capacity to deliver the proposed Project and maintain long term viability and compliance.

At least one of the following key team members – Owner, Developer, or Development or Financing Consultant – must have prior experience completing and operating affordable housing Projects of a similar type and scope as the Project being proposed.

The applicant (owner, borrower, sponsor, developer, guarantor) must demonstrate the financial and workload capacity necessary to execute the proposed Project. The lead developer (and/or co-developer and/or development consultant, if applicable) must demonstrate a track record of Projects of similar size, scale, type, and complexity to the proposed Project and past performance indicates that the Project will deliver on time and on

budget without additional concessions from DHCD before closing. The applicant demonstrates the willingness and capacity to take the predevelopment risk necessary to move the Project toward closing, parallel to DHCD's underwriting and approval process. The guarantor must have the financial capacity to ensure that the Project will deliver regardless of any potential delays or cost overruns.

### ***Forms and Attachments***

An extensive series of forms and attachments must be completed and submitted for each member of the development team, including corporate documents, qualifications, resumes, references, organizational charts, workload descriptions, AIA documents, statements of real estate owned, and financial statements.

### ***Clean Hands Certificate***

Core development team members will be required to submit a Certificate of Clean Hands and a Certificate of Good Standing issued by the District of Columbia.

### ***Legal/Compliance Issues***

Within the past five years, no member of the development team acting as sponsor, developer, guarantor, or owner may have been debarred, removed as general partner or managing member, as applicable, had chronic past due accounts, substantial liens or judgments, chronic housing code violations, excessive tenant complaints, failed to receive IRS Form(s) 8609 for a completed Project, or consistently failed to provide information to DHCD about other loan applications or existing developments. Their history regarding substantial liens, defaults, judgments, foreclosures, and/or bankruptcies must be disclosed and found acceptable to DHCD.

Development team members must be in compliance with all existing and prior agreements with DHCD, DCHFA, and/or the District of Columbia, including major health, safety and building codes. Development team members may not have had a tax credit award terminated by DHCD and the proposed property management company must not have received an unsatisfactory rating from DHCD or the U.S. Department of Housing and Urban Development (HUD) within the past three years.

### ***Contract Affidavit***

All development team members must sign and submit a Contract Affidavit certifying that they: (1) are not debarred from participation in any federal or District program; (2) do not have any unresolved default or noncompliance issues with the District of Columbia; and (3) meet the legal/compliance standards outlined above.

## ***Reports and Plans***

A summary of required third-party due diligence reports and plans is provided below. Please refer to the Underwriting Guide or online application for additional detail on all report and plan requirements

### **Appraisal**

Applicants must submit three valuations, which can be submitted together in a single report or as separate reports. A licensed appraiser must provide the following values:

- The “as-is” value;
- The “as-built” or “as-complete” value, assuming restricted rents; and
- The “as-built” or “as-complete and stabilized” value, assuming unrestricted, market-rate rents.

The “as is” appraisal must provide a value of the land and improvements in their current state. The “as built” appraisals must contain post-construction estimates of value (based on the Project concept as proposed to DHCD) under two sets of circumstances: (1) assuming rents restricted to the AMGI limits proposed to DHCD; and (2) assuming market-rate rents (in the event of foreclosure). If the property includes existing improvements that will be demolished as part of the development plan, the appraisal must take the cost of demolition into consideration for an “as vacant” land value.

Appraisals must have been completed no more than six months prior to the application deadline. For selected Projects, the appraisals must not be more than one year old at the time they are submitted to the Office of Program Monitoring (OPM) for compliance review, so an update may be required at that point. For all Projects, appraisals (or the most recent update) must be no more than 120 days old at the time of closing. Any updated reports or studies requested by DHCD post-selection must be procured and returned promptly, and applicants should budget for these costs now.

### **Market Study and Market Demand Analysis**

Applications must include a market study prepared by an independent professional who is accredited by the National Council of Housing Market Analysts (NCHMA) that has experience with tax credit housing in the District of Columbia. Market studies should be performed following the requirements of IRC Section 42(m)(1)(A)(iii) and should be no more than six months old at the date of application submission. The market study must adhere to the current NCHMA Model Content Standards. The Applicant must provide documentation that demonstrates sufficient market demand and need for the Project. If the Project is mixed-income and/or mixed-use and includes additional components beyond affordable/tax credit housing, the documentation must also demonstrate sufficient demand for all aspects of the overall Project.

## **Environmental Site Assessments**

Applicants must include a completed Phase I Environmental Site Assessment, which must have been completed no more than two years prior to the application submission deadline. If the property contains existing improvements, the scope of the Phase I Assessment must include the identification of: (1) possible asbestos containing materials; and (2) potential mold hazards (destructive testing not required).

If the property includes an existing structure that will not be deemed exempt due to age or usage, applicants also must submit a lead assessment. For selected Projects, the Phase I must not be more than one year old when they are submitted to OPM for compliance review, so an update may be required at that point. Any updated reports or studies requested by DHCD post-selection must be procured and returned promptly, and applicants should budget for these costs now.

If the Phase I identifies any potential environmental hazards, applicants must include a narrative plan to address the issues and a budget for remediation. If a Phase II has been completed, that document must also be provided.

## **Physical Needs Assessments**

For Projects that involve the rehabilitation of existing buildings, applicants also must provide a Building Evaluation Report, which is a preliminary engineering assessment of the buildings. In rehabilitating properties, developers may encounter unforeseen issues that can delay, increase the cost of, or even halt rehabilitation. To avoid this, DHCD requires that an engineer or other qualified professional complete an assessment of the property. A Capital/Physical Needs Assessment or a Property Conditions Needs Assessment will satisfy this requirement.

For Projects that involve the rehabilitation of existing buildings, applicants must submit the Housing Code Inspection report from the DOB [SCOUT](#) database, or the equivalent from its successor agency, as applicable.

## **Architectural Plans and Cost Estimates**

Applications must submit final design schematics documents that reflect the general intent of the Project, generally delineate the proposed Project scope and contain the following:

- Final Schematic scope of work narrative, architectural plans and materials specifications sufficient to create a detailed cost estimate.
- Complete Form 215 detailed estimates of costs based on “take-offs” from those plans, completed and signed by a qualified professional such as an architect, general contractor, engineer or professional construction cost estimator. “Rule of thumb” square foot costs or other non-detailed cost estimates are not acceptable, and a Form 215 completed and signed by the developer will not be accepted.

## ***Compliance Criteria***

### **Green Building Design and Construction**

All applications must meet the following standards relative to green design and building, which apply to all Projects for which public financing constitutes 15 percent or more of Total Project Costs. Public financing includes the private equity raised through the syndication of LIHTCs. Per DHCD requirements, all Projects must implement the following green building requirements for new construction, substantial rehabilitation or moderate rehabilitation. Please see current Consolidated RFP for more detail.

The intent of this requirement is to ensure that Projects are in compliance with the DOE Building Energy Performance Standards (BEPS) throughout the initial LIHTC compliance period. The standards below have been updated in anticipation of the second BEPS compliance period – phasing in buildings 25,000 square feet and larger – for Projects that receive building permits starting in January 2027. General BEPS compliance requirements, guidance and forms can be found on DOE's website: <https://dc.beam-portal.org/helpdesk/kb/>.

**New construction** Projects with buildings with at least 25,000 square feet of Gross Floor Area must be certified by Enterprise Community Partners using the [2020 Enterprise Green Communities \(EGC\) Criteria](#), at the more stringent Enterprise Green Communities Certification Plus level. Projects also may pursue a “substantially similar standard.” If a Project team would like to use another standard, it must request a waiver from DHCD prior to application submission in order to provide time to consult with DOE. This includes Projects that wish to utilize a [LEED Zero Energy](#) standard. LEED is not a pre-approved standard, and use of LEED Zero Energy will require a commitment from the developer to modify the standard to count only on-site or in-District renewable energy when determining a Project's source energy use.

**Rehabilitation** Projects with buildings of at least 25,000 square feet of Gross Floor Area must be certified by Enterprise Community Partners using the base-level 2020 Enterprise Green Communities Criteria. Projects also may pursue a “substantially similar standard.” Currently, certification with the U.S. Green Building Council using LEED for Homes and LEED for Homes Multifamily Midrise rating systems at the Silver level or above are pre-approved “substantially similar standards.” If a Project team would like to use another standard, it must request a waiver from DHCD in their submission. **In addition**, the Project must pursue at least a Level 1 Accelerated Savings Recognition Alternative Compliance Pathway (ACP) Option for compliance with DOE's Building Energy Performance Standards (BEPS). Compliance requirements for the Accelerated Savings Recognition Option are in the BEPS Compliance and Enforcement Guidebook for Compliance Cycle 1, section 4.2.1, available here: [https://dc.beam-portal.org/helpdesk/kb/BEPS\\_Guidebook/70/](https://dc.beam-portal.org/helpdesk/kb/BEPS_Guidebook/70/).

New construction and rehabilitation Projects with buildings below 25,000 square feet of Gross Floor Area must be certified by Enterprise Community Partners using the base-level 2020

Enterprise Green Communities Criteria. Projects also may pursue a “substantially similar standard.” Currently, certification with the U.S. Green Building Council using LEED for Homes and LEED for Homes Multifamily Midrise rating systems at the Silver level or above are pre-approved “substantially similar standards.” If a Project team would like to use another standard, it must request a waiver from DHCD as part of its submission.

## **Certifications**

For Projects pursuing either base-level or Plus-level Enterprise Green Communities Criteria certification, Project teams must hold a Goal Setting and Integrated Design Charrette prior to application to consider the most cost-effective ways to integrate required green design elements. The findings of this charrette must be documented and submitted along with confirmation of Enterprise Green Communities Criteria registration on the online certification portal and an intended methods checklist. As a condition precedent to tax credit/loan closing, Project teams must submit proof of Enterprise Green Communities Step 1 Pre-Build certification. Once construction is complete, Projects must demonstrate that they have achieved Step 2 Post-Build certification. Note: per Enterprise’s updated process, it is recommended that Projects seeking the Certification Plus should request a traditional review and opt out of an itemized review. For buildings that are more than 5 stories above grade that are pursuing EGC Plus with ZERH, the Project should utilize the Enterprise [5.2b temporary ZERH pathway](#) (dated March 14, 2022)

Projects pursuing LEED certification (LEED for Homes, LEED for Homes Multifamily Midrise, LEED Zero Energy) must be certified by the US Green Building Council. At the time of submission, upon consultation with your team’s design professionals, the appropriate completed LEED checklist must be submitted, demonstrating compliance with all prerequisites and sufficient points to achieve LEED Silver or above. Please note that submission of evidence of an integrated design charrette is not mandatory for LEED Projects but is strongly encouraged. If selected for financing, as a condition precedent to loan closing, Project teams must be registered with LEED Online and add the DC Government account (green.building@dc.gov) to the LEED Online Project team. Once construction is complete, Projects must demonstrate that they have achieved the appropriate certification.

All Projects must install solar panels or submit a waiver for this requirement if solar panels cannot be installed on the building. Projects should include specifications for the system in the schematic plans and related funding sources should be evident in the Form 202 Consolidated RFP as a Permanent Source, as Non-Residential Income, and/or as additional cash flow in the 20-year proforma that enable a larger deferred developer fee. The Inflation Reduction Act allows Projects to claim both the Solar ITC, LIHTC, DC LIHTC, and other related tax credits on the solar expenses incurred by the Project. DHCD expects that the funding benefits of the solar, including but not limited to the Solar ITC and SRECs, will be included as a source for the Project.

## **Relocation and Anti-Displacement Strategy**

For existing and occupied buildings/properties that result in the temporary or permanent displacement of current occupants, including commercial tenants, the applicant must submit a Relocation and Anti- Displacement Strategy. This strategy (due with the application) provides the groundwork for the Relocation and Anti-Displacement Plan (due before the issuance of a Letter of Commitment for financing). All Projects financed with LIHTCs in the District of Columbia will be held to the standards of the Uniform Relocation Act and the District’s Rental Housing Act.

Instances where a strategy and plan are required include the following, regardless of funding source:

- tenants will be required to move to facilitate the building’s rehabilitation, even if they are moved to other units within the same building or complex;
- demolition of existing dwelling or commercial units or buildings that are occupied at the time of acquisition or at the time the applicant executes a legal instrument that demonstrates site control; or
- tenants will be displaced because the proposed rents are not affordable to those households.

### **Resident Services Plan**

A submission of a Resident Services Plan is a new threshold requirement for 2023. All applicants must submit a written plan summarizing how they intend to provide high-quality, property-wide resident services designed to empower residents, improve residents’ quality of life, and support broader community-building goals. The plan should describe how the proposed resident services are targeted to the resident population and support anticipated community needs and interests. Community amenities should also be indicated in the resident services and architectural plans and should be consistent with the services proposed for the site. At a minimum, the plan should highlight at least one service and one amenity being proposed for the resident community, including but not limited to those described in the Resident Services and Community-Oriented Amenities Evaluation Criteria section. Such services are in addition to the PSH case management services that serve a limited resident population with more intensive needs.

The plan should also discuss how core resident service(s) are expected to be funded and sustained with sources of funding outside proposed Project capital and operating financing (e.g. organizational fundraising, a portion of developer fee reserved for this purpose, a combination of developer fee and fundraising, both, etc.), and how the Project intends to maintain the funding for at least 15 years. Services can also be supported by operating income to the extent that DHCD’s overall Operating Expense Guideline is not exceeded.

**If an applicant intends to seek preference points for their Resident Services Plan submission, the applicant is required to submit a thorough, comprehensive plan with a higher level of detail that complies with the requirements for points outlined elsewhere in the QAP.**

## Evaluation Criteria

All Projects that apply for Tax Credits and meet the Threshold Eligibility Requirements will be competitively evaluated and rated based on pre-determined evaluation criteria, established in accordance with federal law and the District's housing priorities and needs. The Evaluation Criteria is defined in this QAP and is further clarified in the Online Application.

Evaluation Criteria will be grouped into the following categories with maximum possible point totals, such that maximum preference per sub-category may be achieved without meeting each criterion in the category.

EVALUATION CRITERIA	
	Potential Weight
<b>Project Readiness and Past Performance</b>	<b>Maximum -25</b>
Error-Free Submission	-10
Readiness to Proceed	-4
Compliance with DHCD Cost and Funding Guidelines	-5
Past Performance	-6
<b>Inclusive and Equitable Housing</b>	<b>Maximum 25</b>
Permanent Supportive Housing	10
Family-Oriented Units	10
Programs to Address Additional Barriers to Housing	5
Housing for Older Adults	5
Accessible Housing	5
Homeownership and Wealth-Building	8
Income Levels Served	6
Section 8 and Public Housing Waiting Lists	1
<b>Place-Based Priorities</b>	<b>Maximum 25</b>
Affordable Housing Opportunities Across Planning Areas	25
Proximity to Transit	10
Proximity to Neighborhood Amenities	5
Preference for Projects with District Land	10
<b>Maximizing the Impact of DHCD Resources</b>	<b>Maximum 25</b>
Creation of Net New Units	5
Risk of Loss of Affordability in the Near Term (NOAH or Covenanted)	7
Mixed-Income	10
Affordability Period Restriction	10
Non-Profit Participation and Right of First Refusal	3
Maximizing Density	5
Leverage	10
<b>Innovative and Community-Oriented Features or Programming</b>	<b>Maximum 25</b>
Resilient Buildings and Innovative Design	22
Resident Services	9
Community-Oriented Amenities	6
Workforce Development	8
Developer Capacity Building	5



## ***Project Readiness and Past Performance***

### **Error-Free Submission**

Proposals with inconsistent information between the Project narrative, application, and back-up documentation including the Form 202 will be negatively impacted and have points deducted. Projects with assumptions outside of the DHCD guidelines as stated in the Consolidated RFP, Underwriting Guide, or other published guidance will also be negatively impacted. Projects that have proposed uses that are associated with dedicated third-party funding sources must include those sources in the Form 202. For example, all viable green financing/funding sources must be included, including benefits provided in the Inflation Reduction Act (IRA).

### **Readiness to Proceed**

Projects applying for gap financing with a closing timeline greater than 12 months from being selected for further underwriting by DHCD, based on application timeline, narrative, and supporting documentation, will be negatively impacted and have points deducted. Projects applying for 4% LIHTC in conjunction with a tax-exempt bond allocation must be able to close on all Project financing within six months of the submission of an application to DCHFA.

### **Compliance with DHCD Cost and Funding Guidelines**

Projects that do not follow DHCD's Underwriting Guidelines will be negatively impacted. Underwriting Guidelines include construction cost, soft cost, and operating cost guidelines that are updated periodically and will be specified in the online application or Underwriting Guide. The purpose of these requirements is to ensure efficient use of DHCD funds and thus enable DHCD to serve more households with its finite amount of subsidy funds. A number of these guidelines are firm requirements and cannot be waived. In other instances, Projects may be outside a certain guideline, but their application will be negatively impacted. Points will be deducted per each 5% increment over max construction cost or operating cost guideline, or soft cost guideline.

### **Past Performance**

The past performance of existing Projects in the development team's portfolio will be critically evaluated with consideration for any legal/noncompliance matters. Applications for which members of the development team, as applicable, participated in prior Projects that were delayed, had a U.S. Department of Labor (DOL) wage rate complaint and subsequent investigation, and/or did not submit annual reporting to DHCD's Portfolio and Asset Management Division (PAMD) will be negatively impacted and have points deducted.

## ***Inclusive and Equitable Housing***

### **Permanent Supportive Housing**

Aside from the 5% PSH Threshold Eligibility Requirement for all Production Projects, Projects also may earn points by creating additional PSH units beyond the minimum number required. These points are available to both production and preservation Projects. Maximum points will be awarded to Projects that set aside at least 20% of the units as PSH units.

The scoring for PSH units is guided by Chapter 4 of the Interagency Council on Homelessness' (ICH) 2021-2025 strategic plan, titled Homeward DC 2.0, available at: <https://ich.dc.gov/page/homeward-dc-20-ich-strategic-plan-fy2021-fy2025>

### **Family-Oriented Units**

Maximum points will be awarded to Projects in which at least 30% of the affordable units have three or more bedrooms. Partial weight may be awarded to Projects that include a certain percentage of units that have two or more bedrooms.

### **Programs to Address Additional Barriers to Housing**

Points will be awarded to Projects that include programming for underserved populations who face barriers to securing affordable housing, including:

- Returning citizens
- Households of unknown immigration status
- Residents with developmental or intellectual disabilities
- Youth aging out of foster care
- Housing for Persons with AIDS
- Other Programs – Applicants may request points for Projects that will serve populations not listed here. Project should provide a complete explanation of the program including the barriers to housing faced by the population and a market study that supports the inclusion of the program.

### **Housing for Older Adults**

In alignment with the Age-Friendly DC Task Force recommendations, maximum points will be awarded for Projects that are assisted living properties. Points will be awarded to Projects that are independent living facilities. Points will be awarded for Projects that include units designed and reserved for age restricted housing for people 62+ or age restricted housing for people 55+. Applicants receiving this point must affirmatively demonstrate that their proposed mix is fully compliant with the Fair Housing Act and the Housing for Older Persons Act of 1995 (HOPA) Exemption.

### **Accessible Housing**

Maximum points will be awarded to Projects that meet [The Kelsey design standards at either the Silver/Gold/Platinum level](#) and/or utilize Universal Design as defined in the [Virginia Universal Design Standard](#). Points will be awarded for Projects in which all units meet the American National Standards Institute (ANSI) Type A accessibility standards and/or provide twice the number of accessible and audio/visual units as required by Section 504. Type A units must meet the requirements as defined in Chapter 11 of the 2013 District of Columbia Building Code: <https://codes.iccsafe.org/content/chapter/9182/>.

### **Homeownership and Wealth-Building**

Points will be awarded for Projects emphasizing wealth-building opportunities for current or future residents, either through homeownership opportunities or resident services and programming. Maximum points will be awarded for Projects that provide homeownership opportunities to residents immediately upon completion of construction or rehabilitation. Points will be awarded for Projects that are structured to transfer to tenant ownership after the initial 15-year compliance period, through the Right of First Refusal provided for in Section 42(i)(7) of the Internal Revenue Code. Points will be awarded for Projects that provide wealth-building services that may better prepare tenants to be homeowners, including but not limited to positive rent reporting for credit scores, rent payment incentives, connecting unbanked or underbanked residents to financial institutions, or shared appreciation.

### **Income Levels Served**

This measure evaluates the weighted average of the income levels served for units proposed to be funded by DHCD, with Projects receiving progressively more points as they serve lower income levels. This criterion applies to both preservation and production Projects. Maximum points will be awarded to Projects that target a weighted average Area Median Gross Income (AMGI) less than or equal to 40%. For example, a Project with an equal mix of 30% AMGI and 50% AMGI units funded by DHCD would receive maximum points.

### **Section 8 and Public Housing Waiting Lists**

Projects can earn points if leasing preference is given to households on the public housing or Section 8 waiting lists maintained by the DC Housing Authority (DCHA).

## ***Place-Based Priorities***

### **Affordable Housing Opportunities Across Planning Areas**

This criterion awards points for Projects based on location. DHCD seeks to create more affordable housing across Planning Areas, especially in neighborhoods with characteristics such as low-crime, low-poverty, and access to high quality schools and jobs. Another goal of this criteria is to disperse the District's affordable housing supply more equitably across neighborhoods and Wards, and to counter the systemically racist housing policy of the past which has concentrated affordable housing in neighborhoods east of Rock Creek Park,

particularly in Wards 7 and 8. Planning Areas are identified in the District's October 2019 Housing Equity Report that charts a pathway to achieve the goal of 12,000 new affordable units by 2025 in a more equitable and inclusive manner. Maximum points will be given to projects located in the Rock Creek West, Near Northwest, or Capitol Hill Planning Areas. Applicants should use the interactive map provided in the Online Application System Consolidated RFP to determine in which Planning Area their Project is located.

### **Proximity to Transit**

Maximum points will be given to Projects that are located within ¼ mile of a Metrorail station or a DC Streetcar stop. Points will be awarded for Projects located within ½ mile of a Metrorail station, or a DC Streetcar stop or within ¼ mile of a 24-hour service bus line stop as referenced in B24-1129, the "Fare-Free Bus Funding Emergency Amendment Act of 2022."

### **Proximity to Neighborhood Amenities**

Points will be given to Projects that are located within ¼ mile of neighborhood amenities such as full-service grocery stores, public libraries, public or charter schools (if a family project), aging services (if an Older Adults project), recreation facilities, or primary care providers.

### **Preference for Projects with District Land**

Projects will receive maximum points if: (1) the Project is part of the redevelopment of a site formerly owned by the District of Columbia; (2) the site was awarded to the applicant through a competitive disposition process; and (3) the Project is being developed on the site that was awarded. This includes dispositions managed by DHCD's Property Acquisition and Disposition Division (PADD), the Deputy Mayor for Planning and Economic Development (DMPED), and the DCHA, among others. Points will be given for Projects that incorporate a ground lease held by DHCD (for rental Projects), or a land trust (for homeownership Projects) for the Project site.

## ***Maximizing the Impact of DHCD Resources***

### **Creation of Net New Units**

Maximum points will be awarded to Projects where 50% or more of the total units qualify as Net New Units.

### **Risk of Loss of Affordability in the Near Term (NOAH or Covenanted)**

Maximum points will be awarded to preservation Projects that are either considered Naturally Occurring Affordable Housing (NOAH) and are not currently encumbered by an affordability covenant, or those with existing affordability covenants that will expire within two to five years

from the due date of the application. Maximum points will be awarded for Projects within two years of expiration of an existing covenant, or those Projects without an existing affordability covenant.

### **Mixed-Income**

Maximum points will be awarded for Projects that include market-rate units and affordable units serving a variety of household income levels in the same Project as defined below. The affordable and market rate units must be equitably distributed within the development in order to comply with federal fair housing regulations and the mix must be achieved within a single building with a shared entrance.

1. Inclusion of market-rate units: Points will be awarded to Projects that integrate affordable units with market rate units within the same Project. For the purposes of this section, market rate units developed in a separate condominium or tax lot structure will count as created within the same Project. To receive points, the percent of market rate units must be between 20% to 80% of the total units, and the affordable and market rate units must be equitably distributed within the development in order to comply with federal fair housing rules.

The mixed-income criteria can only be met with a mix of affordable and market-rate (unrestricted) units and not a mix of affordable units serving varying AMGI levels. For example, a 100% affordable building that is part of a larger site mixed-income redevelopment would not qualify for points under this criterion.

2. Providing units for a range of AMGI levels: Points will be awarded to Projects that propose a mix of affordable units serving varying AMGI levels – from 30% AMGI to market rate units - within the same Project. To achieve points, a minimum of 10 percent of units must be proposed in three of the following income categories:
  - 0 percent to 30 percent MFI
  - 31 percent to 50 percent MFI
  - 51 percent to 80 percent MFI
  - Market-rate (unrestricted, unsubsidized)

### **Affordability Period Restriction**

Applications documenting that the owner will maintain the low-income units in compliance for a designated period beyond the standard 25-year extended use period after the initial 15-year Compliance Period will be awarded points. Points will be awarded to Projects that commit to affordability in perpetuity. Maximum preference will be awarded to Projects, with any affordability term, that incorporate a ground lease held by a public entity.

## **Non-Profit Participation and Right of First Refusal**

Evaluation of this criteria will be completed based on the applicant's description of the Year 15 plan in the Project narrative component of the online application. Points will only be awarded for Projects in which a Qualified Non-profit Organization materially participates (that is, has an ownership interest and decision-making role) in the development and operation of the Project. Points will be awarded for Projects in which a Qualified Non-profit Organization is the managing member of the general partner, the Qualified Non-profit Organization holds an ownership interest of 51 percent or more of the general partner or managing member, as applicable, of the Ownership Entity, and will have a right of first refusal to purchase the Project at the end of the Compliance Period based on IRC Section 42(i)(7), as may be amended from time to time. All LIHTC Projects in which a Qualified Non-Profit Organization is managing member of the general partner or managing member, as applicable, of the Ownership Entity, are required to apply for the Tax Relief Program. The real property tax and recordation exemptions offered through this program should be reflected in the Form 202 for LIHTC Projects receiving maximum preference in this category.

To obtain maximum points under this category, the applicant must sign or intend to sign a right of first refusal Agreement between the owner, non-managing members and Qualified Non-Profit Organization before the Project's financial closing. Additionally, the non-managing members shall certify to DHCD that they have not sought to undermine the exercise of a right of first refusal or option to purchase in prior transactions. Examples of undermining include but are not limited to, engaging in litigation or otherwise seeking to prevent a Qualified Non-profit Organization from exercising their right of first refusal or option to purchase a Project without just cause, or seeking to remove a general partner or managing member without clear evidence of fraud or mismanagement of a Project. The right of first refusal must meet the Threshold Eligibility Requirements in the Project Criteria section and will be recorded with the land records as an attachment to the Indenture of Restrictive Covenants. All rights of first refusal granted to Qualified Non-profit Organizations under this preference are subject to the requirements of the Tenant Opportunity to Purchase Act (TOPA) and the District's Opportunity to Purchase Amendment Act of 2008, DC Law 17-286 (DC Official Code Section 42-3404.31 et seq.), as either law may be amended from time to time.

## **Maximizing Density**

Points will be awarded for Projects that maximize the allowable density on the Project site under current zoning laws. Maximum points will be awarded for Projects that increase Project density through a Planned Unit Development (PUD), Map Amendment, or some other official mechanism.

## **Leverage**

These criteria will measure the extent to which the federal Tax Credit Allocation Amount and additional loan funds (if requested) are leveraged with other public and private resources by calculating the percentage of the total development cost that is funded by DHCD. To maximize

points on this criterion, applicants should pursue alternative financing sources that reduce DHCD's investment in the Project, such as private grants or soft debt, PACE financing, Housing Assistance Payment contracts, property tax abatements/exemptions, etc. In mixed income buildings, applicants may use surplus cash flow from the market rate units to cross subsidize the affordable units and improve their leverage ratio.

## ***Innovative and Community-Oriented Features or Programming***

### **Resilient Buildings and Innovative Design**

Maximum points will be awarded to applicants that design and construct their Project to achieve Enterprise Green Communities Certification Plus (EGC+) including Criterion 5.4: Achieving Zero Energy. Points will be awarded Projects that exceed the minimum Green Building Design and Construction Threshold Requirements and commit to achieving one of the following specific certifications:

- Enterprise Green Communities Plus (rehabilitation Projects of any size and new construction buildings less than 50,000 sf)
- TRUE Zero Waste Certification
- Whole Building Life-Cycle Assessment (LCA) Supported Low-Embodied Carbon Design (see guidance from LEED v4.1 Building Life-Cycle Impact Reduction credit)
- Mass-Timber Construction; and/or Modular Construction and/or conversion of office to residential building
- Enterprise Green Communities Criterion 6.5 Environmentally Responsible Material Selection for Concrete, Steel, and Insulation

Specifically, the EGC Criterion 6.5 requires submitting a publicly disclosed Environmental Product Declaration (EPD) for 90% by volume for all (concrete/steel/insulation) used in the Consolidated RFP Project. Clearly indicate the total Global Warming Potential (GWP). Only new products should be counted; existing/reused/salvaged products are exempt.

Any Project claiming points in this category must demonstrate the capacity and experience to achieve certification, and to incorporate the innovative features specified. The architectural plans and Project budgets (development and operating) submitted in the application must reflect the commitment to certification and the features described. Such features may include sub-metering of water, as described further in PAMD's Utility Allowance Guidelines, available here:

<https://dhcd.dc.gov/service/project-monitoring>. Points will be awarded to Projects that complete the DOE Resilience and Solar Assessment Tool

([https://doee.dc.gov/sites/default/files/dc/sites/ddoe/service\\_content/attachments/DC%20DOEE%20Resilience%20Tool%20Manual-8.28.19.pdf](https://doee.dc.gov/sites/default/files/dc/sites/ddoe/service_content/attachments/DC%20DOEE%20Resilience%20Tool%20Manual-8.28.19.pdf))

### **Resident Services**



Points will be awarded to Projects proposing high-quality, comprehensive property-wide resident services. Such services are in addition to the PSH case management services that serve a limited resident population with more intensive needs. Points will be awarded to applications with a resident services plan where the core resident services are expected to be funded and sustained with sources of funding outside the Project (e.g. fundraising or supported through a portion of developer fee set aside and reserved for this purpose or a combination of developer fee and organizational fundraising). Projects will be awarded points if they demonstrate outside funding is secured for up to 33% of the budget, up to 50% of the budget, or over 80% of the budget.

Points will be awarded for Resident Services Plans that provide targeted services for all residents, address anticipated resident needs and interests, and support community building or wealth building efforts for the residents. These services should be indicated in the plan with an explanation of how the Project intends to maintain them for at least 15 years. Resident services may include, but are not limited to, the following:

- Training and Educational Programming – Academic and Economic Empowerment (e.g. job/vocational training, skill-building activities, tutoring/educational assistance for youth or adults, financial literacy training, credit counseling, homeownership/wealth-building education, rent reporting)
- Training and Educational Programming –Environment, Health and Wellness (e.g. health initiatives, nutrition workshops, wellness/recreational activities, art and cultural activities, green living education, counseling services)
- Resident Involvement and Organizational Capacity-Building (e.g. cooperative board training program, tenant association participatory role/ownership interest, legal and financial services, other enrichment/community-building activities)

### **Community-Oriented Amenities**

Points will be awarded for Projects that offer the following amenities:

- High Speed Internet in-unit at no charge to the resident
- Child-focused amenity or additional use on premises (e.g. playground, on-site daycare or preschool facility, etc.)
- Access to fresh food on premises (e.g. grocery store, active community garden, farmer's market, commercial kitchen, etc.)
- Access to healthcare or wellness facility on premises (e.g. fitness center, clinic, etc.)
- Other communal space (e.g. community room, multipurpose room, courtyard, etc.)

### **Workforce Development**

Points will be awarded to Projects where the development team is comprised of individuals designated as a Disadvantaged Business Enterprise (DBE), Resident-owned Business Enterprise (ROB) or led or controlled by individuals designated as socially disadvantaged under the Small Business Administration (SBA) definition. Development team roles include:



- Development Consultant
- Architect
- General Contractor
- Construction Manager
- Property Management Company
- Resident and/or Supportive Services Provider

Points will be awarded to Projects that:

- Submit detailed plans for apprenticeship programs that facilitate the placement of DC residents in employment opportunities at the Project, which exceed the minimum apprenticeship hours worked by DC residents by 10% or more. The commitment and strategy to develop and implement a local apprenticeship program shall be in accordance with D.C. Official Code §§ 32-1401, et seq.
- Exceed the District's First Source Hiring requirement by 10% or more.
- Commit to Certified Business Enterprise (CBE) participation of 50% or more. Points will be given to Projects that are utilizing one or more of the DC Green Jobs or Workforce Development Programs (<https://sustainable.dc.gov/page/green-jobs-careers-and-workforce-development>).

### ***Developer Capacity Building***

Points will be awarded to Projects with developer partners that have not participated in a DHCD-funded project before. Projects with development partners who have participated in or are currently participating in an Accelerator Program, and those partnering with experienced development partners, can be awarded points. Points will be given to a Project where a majority of the managing partners are designated as DBE, ROB, or led or controlled by individuals designated as socially disadvantaged under the Small Business Administration (SBA) definition.

### ***Other Required Evaluation Criteria***

DHCD also will consider aspects of a Project that relate to eventual tenant homeownership and the historic nature of the Project, but DHCD does not attribute specific preference to these categories.

## Underwriting Guidelines

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Projects that have met the Threshold Eligibility Requirements that have been rated and ranked against the Evaluation Criteria also will be evaluated to determine the LIHTC amount that is needed for the Project's feasibility and viability. DHCD will calculate the maximum LIHTC for which Projects are eligible and the minimum required LIHTC needed for feasibility and viability.

Sponsor/Developers will be required to file an updated development budget, operating pro forma, and tax credit calculation worksheet at each stage of the tax credit process. In addition, the Sponsor/Developer must supply all information and supporting documentation requested by DHCD for the purposes of evaluating: (1) the development team capacity; (2) the Project's financial and economic feasibility; and (3) the Project's ability to comply with all applicable federal and local regulations.

Projects are subject to the specific underwriting guidelines outlined in this QAP, listed below, and as supplemented by those items identified in the Consolidated RFP, the Underwriting Guide, or other published guidance which may include, but are not limited to:

- Reserve requirements
- Limitations on costs
- Development/consultant fees
- General contractor fees
- Income/expense/vacancy rates
- Debt service requirements

DHCD's underwriting guidelines include the following: (1) subsidy layering review; and (2) basis boost.

### **Subsidy Layering Review**

For Projects that combine HUD development and/or operating assistance with tax credits, DHCD or DCHFA will complete a subsidy layering review to ensure that the Ownership Entity does not receive excessive government subsidies. DHCD or DCHFA will:

- Undertake the subsidy layering review for each Project after completion of underwriting, if applicable.
- Complete the subsidy layering review for applicable Projects after the Sponsor/Developer submits relevant documentation for review at carryover. This information includes the results of DHCD or DCHFA's underwriting analysis, the Sponsor/Developer's proposed development costs, and information concerning any

Project syndication.

- Complete a second subsidy layering review when the IRS Form(s) 8609 is issued for the Project.

DHCD and DCHFA reserve the right, without amending this QAP, to amend the subsidy layering procedures as necessary to comply with changes in applicable federal law or regulations, and HUD guidelines.

### **Basis Boost**

Federal law permits jurisdictions to calculate and reserve a greater amount of LIHTC than normally calculated on the eligible basis for Projects in certain areas. These areas are known as Qualified Census Tracts (QCT) and Difficult Development Areas (DDA).

- QCTs are areas in which 50% of the population has incomes of less than 60% of the AMGI or that have a poverty rate of a least 25%. A listing of QCTs for the District is available from the HUD website at [www.huduser.gov](http://www.huduser.gov).
- DDAs are those areas designated by HUD because of high construction, land and utility costs relative to the AMGI. The eligible basis for Projects in these areas may be increased by up to 30%. A higher LIHTC may be calculated and reserved where federal law permits and where the feasibility analysis indicates the need for the additional LIHTC.

As authorized by and to the extent permitted by IRC Section 42(d)(5)(B)(v), enacted by The Housing and Economic Recovery Act of 2008, DHCD, in its sole discretion, may increase the eligible basis of Projects by up to 30% (Department's Basis Boost) if it determines that the Project or a building in the Project needs the basis boost to be financially feasible. The Department's Basis Boost is only available to 9% LIHTC Projects.

DHCD has identified the following attributes that could potentially qualify a Project for the Department's Basis Boost:

- Projects located in a Planning Area that is currently below the recommended minimum of 15 percent dedicated affordable housing as defined by the Housing Framework for Equity and Growth referenced in this QAP; or
- Projects located in a census tract that meets the following demographics according to the most recent FFIEC Census Report (<http://www.ffiec.gov/census/>):
  - Less than 5% below poverty level (see Income)
  - Designated Middle- or Upper-Income level (see Demographics); or
- Projects that achieve maximum preference in both of the following prioritization scoring categories:
  - mixed-income; and
  - family-oriented units.

Projects receiving a 30% Basis Boost because of location in QCT or DDA are not eligible to receive the Department's Basis Boost.

## Monitoring for Compliance

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DHCD will monitor each low-income housing Project to make sure that Project owners comply with all federal and District laws, regulations, and provisions applicable to a Project receiving LIHTCs.

DHCD has established compliance monitoring procedures consistent with the requirements of §1.42-5 of the Income Tax Regulations, as amended, which include provisions for physical inspections of low-income housing Projects, review of low-income certifications, the documentation supporting the certifications, and the rent records for the tenants occupying low-income housing units, record-keeping, record retention, and notification of non-compliance. These compliance monitoring procedures are provided in detail in the DHCD LIHTC Compliance and Monitoring Reference Guide, as may be updated from time to time, and can be found at [dhcd.dc.gov/service/project-monitoring](https://dhcd.dc.gov/service/project-monitoring).

Project owners electing the minimum set-aside for Income Averaging must submit an owner-generated plan outlining their proposed policies and procedures for ensuring compliance with Income Averaging requirements. This submission will be required during the underwriting process before a conditional commitment is issued.

The Compliance Period is for 15 years beginning with the first taxable year of the building's credit period and is extended over at least an additional 25-year period by the Land Use Restrictive Covenants, for a total of at least 40 years.

### *Fair Housing & Accessibility*

Section 504 of the Rehabilitation Act of 1973 (Section 504) provides guidelines for the new construction or rehabilitation of housing units that should be accessible to persons with disabilities. Section 504 standards are applied by DHCD to all development Projects, including LIHTC Projects. All Projects will be expected to comply with Affirmative Marketing practices as well as all applicable accessibility standards in addition to Section 504, such as the Americans with Disabilities Act (ADA) and the Fair Housing Amendments Act (FHAA).

### *Davis Bacon*

If a LIHTC Project is assisted with other federal or local funding sources or subsidies triggering the Davis-Bacon Act of 1931 (Davis Bacon) and Davis Bacon Related Acts (DBRA), then prevailing wage rates will apply to the LIHTC-assisted Project. This may include federal sources such as HOME, CDBG, HUD 542(c) Risk Share, and/or an Annual Contributions Contract (ACC). Additionally, local funding sources such as the Housing Production Trust Fund (HPTF) and the Local Rent Supplement Program (LRSP) also trigger prevailing wages.

### *Section 3*

Similar to the application of Davis Bacon stated above, Section 3 of the Housing and Urban Development Act of 1968 (Section 3) will apply to LIHTC-assisted Projects with funds that may trigger its application. HUD and DHCD funds will require the applicability of Section 3 for housing construction, housing rehabilitation, and public construction Projects, and will apply to the whole Project.

### *Environmental Reviews*

Environmental Reviews (ER) subject to NEPA will be performed by DHCD for Projects utilizing both LIHTCs and federal funds, such as Risk Share, ACC, HOME, and/or CDBG. Projects utilizing both LIHTCs and HPTF or the National Housing Trust Fund (HTF) are not subject to the NEPA ER process but will still undergo an ER. LIHTC-only Projects do not require SHPO concurrence.

Additional local compliance requirements may apply to LIHTC Projects. Applicants should refer to the Compliance and Monitoring Reference Guide referenced above.

### *Violence Against Women Act (VAWA)*

Title VI of the Violence Against Women Reauthorization Act of 2013 (“Act”), Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking, expanded the applicability of the Act to the LIHTC program. VAWA protects both child and adult victims of domestic violence, dating violence, sexual assault and stalking. All LIHTC owners and managers shall comply with the requirements of this Act and shall use the applicable VAWA forms as amended from time to time including but not limited to the HUD-5380 Notice of Occupancy Rights under the Violence Against Women Act, HUD-5381 Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, HUD-5382 Certification of Domestic Violence, Dating Violence or Stalking, and Alternate Documentation, HUD-5383 Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and HUD-91067 VAWA Lease Addendum.

### **Recordkeeping and Retention**

For each qualified low-income building in the Project, Project owners must maintain records that provide specific information for each year of the Compliance Period. The failure to maintain these records or otherwise comply with requirements in the DHCD LIHTC Compliance and Monitoring Reference Guide may result in the issuance of IRS Form(s) 8823 and the eventual recapture of tax credits. All applicants are urged to review the LIHTC Compliance and Monitoring Reference Guide and require that Project property managers have a thorough knowledge of the requirements under IRC Section 42 and the LIHTC Compliance and Monitoring Reference Guide.

### **Notification of Project Changes**

Project owners must provide written notice on the Notification of Project Changes Form

available at <https://dhcd.dc.gov/assetmanagement> and/or DHCD's LIHTC Program Compliance and Monitoring Reference Guide no less than 30 days prior to any proposed change in property management or ownership, including Managing Member or General Partner interests.

### **Notification of Noncompliance**

DHCD will promptly notify Project owners in writing if its monitoring reveals that the Project is in noncompliance. This notice will provide a cure period of up to 90 days from the notice date for the owner to bring the Project into compliance. Failure to cure a condition of noncompliance may result in recapture of the LIHTC. All incidents of noncompliance must be reported to the IRS on Form(s) 8823 notwithstanding the resolution of compliance issues. For good cause, DHCD, in its sole discretion, may grant an extension of the cure period for up to an additional six months.

## Definitions

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The following capitalized terms shall have the meanings below unless context clearly requires a different meaning.

**Accelerator Program:** A formal initiative providing career advancement guidance to real estate developers of color who are focused on affordable housing and inclusive community building. Key characteristics of accelerator programs include professional training and fellowships, mentorship, and capital funding.

**Affiliate:** A corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with any other person, and specifically shall include parent companies or subsidiaries.

**Applicable Fraction:** The fraction used to determine the Qualified Basis of the qualified low-income building, which is the smaller of the unit fraction or the floor space fraction, as defined more fully in IRC Section 42(c)(1).

**Applicable Percentage:** The percentage multiplied by the Project's qualified basis to determine the annual tax credit available to the ownership entity for each year of the Tax Credit period and as more fully described in IRC Section 42(b).

**Application or Application Package:** Those forms and instructions prepared by DHCD to make a determination to allocate tax credits. Developers are required to use the forms in the application package. The Application must include all information required by the QAP and as may be subsequently required by DHCD.

**Area Median Gross Income (AMGI or AMI):** The most current tenant income requirements published by HUD pursuant to the qualified low-income housing Project requirements of IRC Section 42(g). Depending on financing sources, the Project may also be required to conform with affordable housing program income limits published for other local and federal programs, with any notable differences described in the Consolidated RFP. AMGI and AMI are encompassed by the broader definition of Median Family Income (MFI), which is a generic term used in the Consolidated RFP to designate rent and income limits that are typically based on HUD Median Family Income (HMF) limits.

**Carryover Agreement and Allocation:** An allocation of current year Tax Credit Reservations by DHCD pursuant to IRC Section 42(h)(1)(E) and Treasury Regulations Section 1.42-6.

**Code or IRC:** The Internal Revenue Code of 1986, as amended, together with any applicable regulations, rules, rulings, revenue procedures, information statements or other official pronouncements issued thereunder by the U.S. Department of the Treasury or the Internal Revenue Service relating to the Low-Income Housing Tax Credit Program authorized by IRC



Section 42. These documents are incorporated in the QAP by reference. A copy of the Internal Revenue Code and Treasury regulations and related information relating to this program are found in the District of Columbia Public Library and are available for review by the public.

**Competitive Bond Financing:** The tax-exempt 4% LIHTC administered by DCHFA according to annual bond cap allocations. This process, effective as of 2023, distributes 4% LIHTC based on DHCD scores and rankings corresponding with a bi-annual Readiness Application through DCHFA.

**Compliance Period (as defined in IRC Section 42(i)(1)):** Regarding any building, the period of 15 consecutive taxable years beginning with the first taxable year of the Tax Credit Period.

**Consolidated Request for Proposals for Affordable Housing Projects (Consolidated RFP):** The competitive procurement vehicle issued by DHCD on a periodic basis that identifies available resources for affordable housing development, including 9% Tax Credits. The Consolidated RFP solicits proposals from qualified applicants and provides any desired clarifications on the threshold eligibility requirements and evaluation criteria. All Consolidated RFPs issued by DHCD are catalogued and available at [dhcd.dc.gov](https://dhcd.dc.gov).

**Control (including the terms Controlling, Controlled by, under common Control with, or some variation or combination of all three):** The possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any Person or Affiliate thereof, whether through the ownership of voting securities, by contract or otherwise, including specifically ownership of more than 50 percent of the general partner interest in a limited partnership, or designation as a managing general partner or the managing member of a limited liability company.

**Developer or Sponsor/Developer:** The party acting as agent for the eventual owner or taxpayer benefiting from an award of a Tax Credit Reservation.

- That party and any of its successors in interest that will be bound by the representations made in the application or documents executed in applying for or accepting the allocation of LIHTC.
- That party or its successors that shall be obligated to carry out the commitments made to DHCD by the Sponsor on its own behalf or on behalf of other Persons or Affiliates.

**Difficult Development Area (DDA):** Any area that is so designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to Area Median Gross Income.

**Eligible Basis:** Regarding a building within a Project, the building's eligible basis at the close of the first taxable year of the Tax Credit Period and as further defined in IRC Section 42(d).

**Forward Reservation:** has the same meaning as described in IRC Section 42(h)(1)(C).

**Gross Floor Area:** The combined floor area of all structures that share building systems, or have at least one common energy or water meter, less any area available for parking as defined by the ENERGY STAR Portfolio Manager benchmarking tool.

**High Risk:** Projects that involve adaptive re-use or require extraordinarily challenging substantial rehabilitation or provide more than 50% of units for tenants with annual income of 50% or less of the Area Median Gross Income.

**HUD:** The U.S. Department of Housing and Urban Development, or its successor.

**IRS:** The Internal Revenue Service, or its successor.

**Land Use Restrictive Covenants a/k/a District of Columbia Department of Housing and Community Development Indenture of Restrictive Covenants for Low-Income Housing Tax Credits (Restrictive Covenants):** An agreement between DHCD and the Ownership Entity and all of its successors in interest where the parties agree that the Project will be an affordable housing Project for the length of the Compliance Period plus the extended use period elected by the Ownership Entity and upon which the award of tax credits was in part based. The Restrictive Covenants will contain language that must encumber the land where the Project is located for the life of the agreement. The Restrictive Covenants must conform to the requirements of IRC Section 42(h) and this QAP.

**Low-Income Unit:** Any residential rental unit if such unit is rent-restricted and the occupant's income meets the limitations applicable as required for a qualified low-income housing Project.

**Management Agent:** The property manager for the Project.

**Net New Units:** Any unit produced or preserved that is not currently subject to an affordable housing covenant.

**Online Application System:** DHCD's internet-based system through which applicants submit applications.

**Ownership Entity:** Any Person and any Affiliate of such Person that:

- submits an Application to DHCD requesting a Tax Credit Reservation pursuant to this QAP;
- receives a Tax Credit Reservation, Carryover Agreement or IRS Form(s) 8609 Tax Credit Allocation;
- is the successor in interest to the Sponsor/Developer who owns or intends to own and develop a Project or expects to acquire Control of a Project consistent

with control documents provided by the Ownership Entity to DHCD as part of the Application.

**Permanent Supportive Housing (PSH):** Supportive housing for an unrestricted period of time for individuals and families who were once homeless and continue to be at imminent risk of homelessness, including persons with disabilities as defined in 24 Code of Federal Regulations 582.5 for whom self-sufficient living may be unlikely and whose care can be supported through public funds. (DC Official Code Section 4-751.01-28)

**Preservation:** A Project that meets the requirements of “Preservation” described under the Threshold Eligibility Requirements.

**Production:** A Project that meets the requirements of “Production” described under the Threshold Eligibility Requirements.

**Project:** A low-income rental housing property the Sponsor/Developer of which represents that it is or will be a qualified low-income housing Project within the meaning of IRC Section 42(g). With regard to this definition, the Project is that property that is the basis for the application.

**Property:** The real estate and all improvements thereon, which are the subject of the Application, including all items of personal property affixed or related thereto, whether currently existing or proposed to be built thereon in connection with the application.

**Qualified Allocation Plan (QAP):** A plan to select and award tax credits to qualified recipients, as described under IRC Section 42(m)(1)(B).

**Qualified Basis:** Regarding a building within a Project, the building’s eligible basis multiplied by the applicable fraction, within the meaning of IRC Section 42(c)(I).

**Qualified Census Tract:** Any census tract that is so designated by the Secretary of HUD and, for the most recent year for which census data are available on household income in such tract, either in which 50 percent or more of the households have an income which is less than 60 percent of the Area Median Gross Income for such year or which has a poverty rate of at least 25 percent.

**Qualified Non-profit Organization or Non-profit:** An organization that: (1) is described in IRC Section 501(c) (3) or (4); (2) is exempt from federal income taxation under IRC Section 501(a); (3) is not affiliated with or controlled by a for profit organization; (4) includes as one of its exempt purposes the fostering of low-income housing within the meaning of IRC Section 42(h)(5)(C); (5) is allowed by law or otherwise to hold and develop property; and (6) meets any additional requirements as described in the QAP and/or Consolidated RFP.

**Readiness Review:** Project review process conducted by DCHFA. DCHFA will review projects for readiness in two application periods per year for tax exempt bonds. One Readiness Review Application will occur in January and one in July, depending on the availability of resources.

**Recovered Tax Credits:** Either tax credits previously awarded to a Project or Projects that cannot use all the tax credits awarded or tax credits from Projects that cannot be placed in service by the Sponsor/Developer/Ownership Entity.

**Reservation or Reservation Letter:** A conditional commitment of LIHTC, which, therefore, does not meet the definition of a binding allocation as stated in IRC Section 42.

**Solar ITC:** Solar Investment Tax Credit, a federal provision pursuant to IRC Section 48 and expanded upon in the Inflation Reduction Act of 2022; provides tax benefits for installation of solar panel arrays on residential and commercial property.

**State Ceiling:** The limitation imposed by IRC Section 42(h) on the aggregate amount of tax credit allocations that may be made by DHCD during any calendar year, as determined from time to time by DHCD in accordance with IRC Section 42(h)(3).

**Tax Credit:** The LIHTC issued pursuant to the program, IRC Section 42. Tax credits are determined under IRC Section 42(a) for any taxable year in the Tax Credit Period equal to the amount of the applicable percentage of the qualified basis for each qualified low-income building.

**Tax Credit Allocation Amount:** Regarding a Project or a building within a Project, the amount of Tax Credit DHCD allocates to a Project and determines to be necessary for the Project's financial feasibility and its viability as a qualified low-income housing Project throughout the Compliance Period.

**Tax Credit Period:** Regarding a building within a Project, the period of 10 taxable years beginning with the taxable year the building is placed in service or, at the election of the Ownership Entity the succeeding taxable year, as more fully defined in IRC Section 42(f)(1).

**Threshold Eligibility Requirements:** See the heading "Threshold Eligibility Requirements" in this QAP.

**TOPA:** The Tenant Opportunity to Purchase Act of 1980, DC Law 3-86 (DC Official Code Section 42-3404.01 *et seq.*)

**Total Project Cost:** The total costs reflected in the application.

**Unallocated or Recovered Tax Credits:** Tax Credits that are not awarded by DHCD during its most recent round of allocation or are returned to DHCD during the current year. These Tax Credits are eligible for redistribution in accordance with DHCD rules or may be carried forward to the next year's allocation cycle.

**Underwriting Guide:** A supplemental document pertaining to all funding applications submitted to DHCD for affordable housing financing, including projects that enter DHCD's

pipeline through one of the following approaches: 1) Applied for gap financing subsidies through the Consolidated Request for Proposals for Affordable Housing (RFP) process; 2) Submitted for Threshold Review with the intention of subsequently requesting tax-exempt bond financing and 4% Tax Credits from DCHFA; and/or 3) Selected through a separate DMPED RFP.